

REMARKS

I. INFORMATION DISCLOSURE STATEMENT

Applicant acknowledges Examiner's statement that the reference listed in the specification is not a proper information disclosure statement. Applicant further acknowledges Examiner's statement that "unless the references have been cited by the examiner on form PTO-892, they have not been considered". (Office Action, pg. 2). Applicant notes that the only listed reference from the specification, (pg. 1-2, par. 0006-0009), is Japanese Publication no. 2001-299789 and as it is further listed on Examiner's Form PTO-892, it is believed to be a references that has been considered on its merits. Accordingly, it is believed that Japanese Publication no. 2001-299789 has been considered on its merits and has been made a part of Applicant's application.

II. STATUS OF DRAWINGS

The drawings are objected to because the drawings did not illustrate "flank sides" claimed in Claim 4 and the subject matter claimed in Claim 5. Elements of Claim 5 are understandable from Fig. 2, and Fig. 3 – Fig. 5, in particular the detachable arm supporting member is shown. Fig. 2 illustrates side arm supporting member (6) fixed to side arm supporting side face (5) via a surface fastener (8). Side arm supporting member is shown in detached position in Fig 3 – Fig. 5.

Claim 4 has been amended to clarify that "flank side of the user" is being referred to. The "flank side of the user" is illustrated in Fig. 2. Thus, the drawings as originally filed show every feature of the invention specified in the claims.

Applicant respectfully requests that Examiner point out if any element is still missing from the drawings, and appropriate correction will be submitted accordingly.

III. STATUS OF SPECIFICATION

The Examiner required correction to the abstract that "An embodiment of the invention" is implied and should be removed. In compliance with MPEP 608.01 (b) the abstract of the disclosure has been amended. Accordingly, withdrawal of the objection to the abstract is respectfully requested.

The Examiner objected to unclear language in light of the drawings in some parts of the specification. Applicant submits amendment to the language in paragraphs 0014, 0031, 0042 and 0062 of the specification to overcome the ambiguity. The specification now reflects the "arm supporting side face 5" "is extended forward from one end of the curved portion 3" in accordance with the figures. In addition, the specification has been clarified to mean that the "flank side" is the "flank side of the user" in accordance with the figures.

The Examiner objected to the specification for failing to provide antecedent basis for the claimed subject matter. Correction of the following is required: The specification does not disclose or provide antecedent basis for the subject matter of claim 5 (or of withdrawn claim 6). Applicants submits the amendment to the language in paragraphs 0014, 0033, 0043, 0050, 0053, 0056 which provides the proper antecedent basis for the subject matter of claim 5 (and withdrawn claim 6). The specification has been amended to provide for the "arm supporting member" being "detachably fixed to the arm supporting side face via a surface fastener" as disclosed in the claims, drawings and paragraph 0013 of the specifications.

Accordingly, Applicant respectfully requests withdrawal of the objections to the specifications.

IV. STATUS OF CLAIMS

Claims 1-6 are pending in the current Application. Claims 1-3 and 6 have been withdrawn without prejudice or disclaimer of the subject matter therein. Claim 4 has been amended. No new matter has been added by the present amendment.

Claims 4 and 5 were rejected under 35 U.S.C. § 112, second paragraph (“Section 112, Par. 2”), as indefinite for failing to particularly point out and distinctly claim the subject matter the applicant regards as the invention, as explained on page 5 of the Office Action.

Claim 4 was rejected under 35 U.S.C. § 103(a) (“Section 103(a)”) as being unpatentable over Japanese Patent Publication No. 2001-299789 to Tatsuya et al. (hereinafter referred to as “Tatsuya”).

Claim 5 was rejected under Section 103(a) as being unpatentable over Tatsuya in view of U.S. Patent No. 4,896,660 to Scott (hereinafter referred to as “Scott”).

Applicant respectfully traverses all rejections and requests reconsideration.

A. REJECTION UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claims 4 and 5 were rejected under 35 U.S.C. § 112, second paragraph (“Section 112, Par. 2”), as indefinite for failing to particularly point out and distinctly claim the subject matter the applicant regards as the invention.

Claim 4 was rejected as being indefinite because it was unclear what was meant by, the arm supporting side face is “extending forward from both ends of the curved portion”. Claim 4 has been amended to reflect that the arm supporting side face “extended forward from one end ~~both ends~~ of the curved portion”

It was also unclear what “flank side” was referred to. Claim 4 has been amended to clarify that “flank side of the user” is being referred to. Claim 5 was also rejected as it incorporated the indefiniteness of Claim 4. The amendment to Claim 4 should remove any indefiniteness and clarify all limitations.

Accordingly, Applicant respectfully requests withdrawal of the rejections of Claims 4 and 5 under Section 112, Para. 2.

B. REJECTION UNDER SECTION 103(a), TATSUYA

Examiner rejected Claim 4 as being obvious over Tatsuya under Section 103(a).

As explained in M.P.E.P. Section 706.02(j):

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The three above-mentioned criteria must exist at the time the claimed invention was made, according to the text of Section 103(a) itself. The Examiner has not established a prima facie case of obviousness using Tatsuya in view of Scott for the reasons stated below.

Tatsuya does not teach or suggest all the claim limitations of Applicant's amended claim 4. Claim 4 has been amended to more extensively claim the subject matter without adding new matter. For instance, the "surface fasteners located on the outer surface of the belt" and their locations "on the arm supporting side of the belt" and the "free end of the belt" is supported in the Specification, paragraph 0046 and Figure 2. In addition, the amendment of the "suspension band" "provided for suspension around the neck" and the "surface fasteners of the suspension band" are also supported. (Specification, par. 0046, Fig. 2).

Tatsuya fails to provide for a suspension band that is "provided for suspension around the neck". Tatsuya rather teaches suspension of its support block around the shoulder(s). As disclosed in Tatsuya, the suspension is provided by way of the shoulder and/or in combination with the back (Tatsuya, Figures 3-10). As such the suspension band as described in amended claim 4, requiring suspension around the neck, is not taught or suggested in Tatsuya.

In addition, Tatsuya fails to teach the required limitations of "a plurality of surface fasteners located on an outer surface of the belt", as well as "a plurality of surface fasteners on an inside of each of the two ends" of the suspension band "for engaging with the plurality of surface fasteners on the outer surface of the belt". As shown in Figure 3 of Tatsuya, the belt 16 does not have any surface fasteners located on an outer surface of the belt. In addition, neither does Tatsuya's hanging belt 13 have surface fasteners for engaging with the surface fasteners on the outer surface of the belt. Rather, the belt 13 engages with the side face C and B or on an edge of A and D of the fixed object 1. (Tatsuya, Figs. 3-10). Therefore, Tatsuya does not teach or suggest all the claim limitations of amended claim 4.

Accordingly, Applicant respectfully requests withdrawal of the rejection of Claim 4 under Section 103(a).

C. REJECTION UNDER SECTION 103(a), TATSUYA IN VIEW OF SCOTT

Claim 5 was similarly rejected as being obvious over Tatsuya in view of Scott. Claim 5 depends on and includes all limitations of its respective base claim 4. The deficiencies of Tatsuya have been discussed above in connection with amended claim 4. Scott simply does not supply the deficiencies of Tatsuya. Scott rather teaches providing support from the shoulder, not the neck as required in claim 5. (Scott, Figs. 1 and 2). Scott in combination with Tatsuya do not teach or suggest all the claim limitations.

Scott also teaches away from Applicant's claims by describing how "straps, one of which extends ...around the patient's neck...tends to impart stress to a patient's neck and has been shown to cause discomfort and exhaustion" (Scott, col. 1, lines 37-42). Scott provides no suggestion motivation to modify or be combined with Tatsuya not in obtaining the limitations of Applicant's claim 5 of "suspension around the neck". Thus, Applicant's claim 5, would not be obvious over Tatsuya in view of Scott.

Thus, elements required for a rejection under Section 103(a) are missing with regard to Claim 4 and dependent Claim 5. The lack of any one of the three elements would make these claims allowable over Tatsuya in combination with Scott

Accordingly, Applicant respectfully requests withdrawal of the rejection of Claims 4 and 5 under Section 103(a).

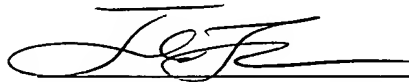
V. CONCLUSION

The above-discussed amendments and remarks are believed to place the present Application in condition for allowance. Should the Examiner have any questions regarding the above amendments, the Examiner is requested to telephone Applicant's representative at the number listed below.

Respectfully submitted,

Date: _____

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